
Testimony of

Marla Graff Decker
Deputy Attorney General
Office of the Attorney General of the Commonwealth of Virginia

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on
“MS-13 and Counting: Gang Activity in Northern Virginia”
The Commonwealth of Virginia’s Approach to Suppressing Gang Activity

Good morning Chairman Davis and Members of the Committee. Thank you for affording me the opportunity to testify before you today.

My name is Marla Decker, and I am the Deputy Attorney General of the Public Safety & Enforcement Division of the Office of Virginia Attorney General Robert F. McDonnell. I am accompanied this morning by James Towey, Assistant Attorney General and Director of the Office’s Organized Crime Unit.

I understand that I have been asked to testify today about the Attorney General’s statewide approach to suppressing gang activity in Virginia as well as our Office’s coordination with regional task forces and federal law enforcement.

Background – Gangs in Virginia

- Gangs and gang-related crime have been on the rise in the Commonwealth. While Virginia has previously had, and continues to have, problems with “homegrown” gangs, authorities have identified the influx of larger, national gangs into Virginia.
- Although the Northern region of the Commonwealth is known for suffering from a high concentration of gangs, all regions of the Commonwealth are seeing some form of gang presence.
- Recent accounts of gang-related violence include brutal attacks on rival gang members, retaliatory shootings, threats against law enforcement, and the all too successful intimidation of witnesses. Many victims of gang violence are innocent bystanders, such as an eight-year-old Smithfield boy, killed by a stray bullet from a shoot-out between two local gangs as he lay asleep in his own bed, and a Richmond motorist killed as he drove past a shoot-out between two cars on a busy street. Other victims are those mistakenly identified as rivals.

- We have seen gangs target our children in the very places where they should feel most safe. For example, a twenty-two-year-old member of the Hoover Crips from St. Louis, Missouri, was sent to Northern Virginia to expand the gang's membership. To recruit new members, he frequented a local school and attended school football games. He was convicted of gang recruitment after he "sexed in" a fourteen-year-old girl.
- The violence associated with gangs is a danger that threatens the safety and welfare of all Virginians. As national gangs continue to form, recruit, and expand throughout Virginia, all communities – suburban, rural, as well as urban – are affected. Gangs and the violence they breed jeopardize the safety of our citizens, the welfare of our neighborhoods, the future of our children, the sanctity of our schools and parks, and the effectiveness of our criminal justice system. The growth of gangs is a trend that must be stopped.
- In May of 2003, in an effort to address Virginia's growing gang problem, former Attorney General Jerry W. Kilgore announced the formation of an Anti-Gang Task Force. Although task forces to combat gang activity are now common, the formation of the Attorney General's Task Force in 2003 was quite novel. The decision to form the Task Force was prompted by the disturbing realization that Virginia truly had an emerging gang problem and that we needed to do something about it before it was too late. Local, and state officials, as well as citizens and the media, have joined the Office of the Attorney General and its federal partners in acknowledging that gang-related crime exists and must be stopped. It is important to note that as we all became more educated about the problem, we realized that there would not be a "one size fits all" solution.
- The Task Force found that Virginia needed more prevention measures and educational initiatives to keep children out of gangs. The Task Force also found that certain communities, some critical law enforcement agencies, and some local governments were not fully educated about gangs, nor were they prepared to deal with the gang problem. Finally, Virginia's pre-2004 gang statutes made it difficult to prosecute gang members and left judges without the opportunity to impose penalties reflecting the gravity of the harm threatened by gang-related crime.
- As a result of the efforts of the Attorney General's Task Force, Virginia has seen: increased gang awareness; an increased role of groups such as Boys & Girls Clubs; specialized gang training; the addition of a specialized gang component into Virginia's Class Action Program; the education of local officials, members of the criminal justice system, parents, and teachers; and legislation aimed at providing more tools for the prosecution of gang offenders. Additionally, it is worthy to note that Virginia's Statewide efforts have been bipartisan. Three Attorneys General have worked side-by-side with two Governors.

Raising Community Awareness

- We quickly found that the first obstacle in dealing with Virginia's gang problem was denial and apathy.
- Often, the diverse nature, characteristics, and activities of gangs make it difficult for communities to define - or even recognize - their gang problems. Unfortunately, gangs thrive on denial and inattention. Thus, the first step towards fighting this problem is recognition that it exists.
- Prior to the implementation of the Anti-Gang Initiative, many jurisdictions across Virginia, with a few notable exceptions (including Northern Virginia), were unaware of gangs or denied the existence of gangs in their communities. Many localities treated the criminal activities of gang members as individual acts, ignoring the fact that such acts were part of a larger, gang-related problem.
- Recognizing that the effort against gangs cannot succeed without action at the local level, this Office has conducted, and continues to conduct, dozens of community awareness meetings across the Commonwealth. We have also conducted gang awareness and prevention training at the annual conferences of the Virginia Association of Counties (VACO) and the Virginia School Boards Association.
- In addition, it was recognized that all members of the criminal justice and education systems should have a working knowledge of gangs in order to adequately recognize, address, and deal with the specific problems associated with them. With the spread of gangs to more rural locales, training is critical for personnel who have no prior experience with gangs. The staff of the Office of the Attorney General has conducted, and continues to provide, training for law enforcement, prosecutors, judges, local officials, school personnel, parents, youth mentors, and citizens throughout the Commonwealth.

Prevention & Intervention

- Gang suppression alone, however, cannot and will not fully address our gang problem. Suppression must be joined with prevention, intervention, and re-entry from incarceration back into the community. While suppression can impact our current gang problem, prevention and intervention are needed to address the prospect of future gang problems. Current hard-core gang members can be left behind bars. Our children, however, are our future and we need to reach them before the gangs do.
- In March of 2004, the Office announced a partnership with the Boys & Girls Clubs to institute a strategic plan to acquaint areas throughout the Commonwealth with available programs to provide youth with healthy alternatives to gang activity. The Boys & Girls Clubs committed up to one million dollars of funds to match localities interested in establishing gang prevention or intervention programs at clubs in their area. These

programs are designed to reach a wide range of young people – from those who are high-risk for joining a gang to those who are already in a gang and possess the potential to leave the gang.

- The Attorney General incorporated gang awareness, gang recognition, and the legal ramifications of gang-related offenses into the “Class Action Program.” The Class Action Program is a Virginia law-related education program designed to enhance the partnership among law enforcement, students, and communities across the Commonwealth. The focus of the program is to educate children about criminal laws that may affect them. Incorporating gang awareness education into this program helps give children a realistic view of the dangers associated with choosing to join a gang. The Office provides Class Action materials for the new gang components (K-12 and parents version) free of charge to any interested school district.

Suppression

- But while we look to the future, we must also address the present. For this reason, suppression efforts are indispensable. The General Assembly approved expansive “tough on gang” legislation during the 2004, 2005, and 2006 Sessions. The legislation:
 - Allows law enforcement officers and prosecutors to more effectively address gang offenses.
 - Extends the offense of gang recruitment to include all types of recruitment, not just recruitment of a juvenile by an adult.
 - Establishes gang-free school zones.
 - Permits forfeiture of property and money used in gang-related crimes.
 - Creates a presumption against bail for violations of the gang statutes.
 - Includes gang offenses in the category of those subject to the presumption of no bail.
 - Includes gang affiliation as a category listed in the pre-sentence report considered by the judge when sentencing.
 - Clarifies that gang members may be prohibited, as a condition of probation or suspended sentence, from association with other gang members.
 - Creates an enhanced penalty for a third or subsequent violation of the gang statutes.
 - Enables state and local law enforcement officers to temporarily detain certain illegal aliens under particular circumstances.
 - Creates offenses to address threats against witnesses of gang crimes.
 - Creates a state Racketeer Influenced and Corrupt Organization (RICO) Act.
 - Authorizes multi-jurisdiction grand juries to investigate violations of the gang statutes.
 - Ensures that sentencing guidelines take into account gang affiliation, recruitment, and gang-related violent offenses.
 - Allows for gang activity to be enjoined as a public nuisance.
 - Protects the disclosure of specific victim and witness information in gang cases.

- Creates a mandatory minimum fine for committing gang graffiti.
- In 2003 the Office of the Attorney General worked with Congressman Frank Wolf to help initially secure approximately \$500,000 in federal funds, for Virginia to combat gang activity statewide, with a focus on Northern Virginia. The monies fund an Assistant Attorney General and a Crime Analyst dedicated to assisting the Commonwealth's Attorneys for the Counties of Fairfax, Loudon, Arlington, and Prince William, and the City of Alexandria. The funds also provide for responsive support to local police in the investigation of local gang activity and gang-related violence, as well as their disruption of gang-related profits and proceeds from gangs' illegal activity.
- Another federal grant administered by the Office of the Attorney General, in the amount of approximately \$500,000, has enabled the Office to expand the efforts into the Shenandoah Valley. In addition to continuing the funding for the Northern Virginia prosecutor, this grant also funds an Assistant Attorney General dedicated to assisting the Commonwealth's Attorneys for the Counties of Augusta, Rockbridge, Rockingham, and Shenandoah, and the Cities of Harrisonburg, Lexington, Staunton, and Waynesboro.
- Further, this Office entered into a memorandum of understanding with the Virginia State Police on September 20, 2005, for the administration of a witness protection program for serious, violent, gang-related cases.

Conclusion

- In conclusion, I would like to read to you in the following quotation from a 2003 Washington Post article:
 - "About a decade ago, [MS-13] members seeking new territory began trickling into Northern Virginia, drawn by an established El Salvadoran population. Before long, MS-13's leadership saw the potential on the East Coast, and elder members traveled to Virginia to help recruit. They saw a place where they could rule the gang world, where loose-knit native groups would be pushovers ... Northern Virginia has since become the gang's East Coast hub." (Washington Post, Sept. 18, 2003).
- Virginia is determined to show gang members that if they really want to make our Commonwealth their East Coast "hub," then that "hub" will have to be located within the walls of Wallen's Ridge State Prison, not on the streets of our communities.
- It may not be possible to measure the success of Virginia's effort in the short term. We must maintain our patience and diligence.
- However, by raising community awareness and focusing on prevention, intervention, and suppression, Virginia has taken significant strides towards protecting her citizens from gang members while securing a better future for our children.